EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Opencast Coal Act, 1958, s. 35, provides that interest shall be payable in addition to compensation in certain circumstances. This Order prescribes a rate of interest of 4½ per cent. per annum.

SUBSIDENCE

1958 No. 1486

The Coal-Mining (Subsidence) (Land Drainage) Regulations, 1958

Made - - - -	*5th September,* 1958
Laid before Parliament	12*th September,* 1958
Coming into Operation	13*th September,* 1958

The Minister of Power and the Minister of Agriculture, Fisheries and Food in exercise of the powers conferred upon them by subsection (5) of section five of the Coal-Mining (Subsidence) Act, 1957(a), and of all other powers them enabling, hereby jointly make the following regulations:—

1. These regulations shall come into operation on the thirteenth day of September, nineteen hundred and fifty-eight, and may be cited as the Coal-Mining (Subsidence) (Land Drainage) Regulations, 1958.

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them respectively, that is to say:—

"the Act" means the Coal-Mining (Subsidence) Act, 1957;

"the appropriate drainage authority" has the meaning assigned to it by subsection (7) of section five of the Act;

"the Board" means the National Coal Board;

"the Ministers" means the Minister of Power and the Minister of Agriculture, Fisheries and Food acting jointly;

"remedial measures" has the meaning assigned to it by subsection (1) of section five of the Act.

(2) Expressions to which meanings are assigned by the Act or by these regulations shall (unless the contrary intention appears) have the same meanings in any document issued under the provisions of these regulations.

(3) The Interpretation Act, 1889(b), shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Determination of questions

3.—(1) In default of agreement any question under section five of the Act arising between the Board and the appropriate drainage authority shall be referred to and determined by an arbitrator agreed for that purpose by the Board and the appropriate drainage authority or, in default of such agreement, appointed by the President of the Institution of Civil Engineers:

(a) 5 & 6 Eliz. 2. c. 59. (b) 52 & 53 Vict. c. 63.

Provided that, where either the Board or the appropriate drainage authority so requests, any question whether or to what extent remedial measures are reasonably required and not unjustifiable on economic grounds and any question as to the timing of such measures shall be referred to and determined by the Ministers. Any such request shall be made in writing to the Ministers and shall specify the questions to be determined and copies thereof shall be supplied to every party to that determination.

(2) All questions to be determined by the Ministers as aforesaid shall be submitted in the form and manner and within such period as the Ministers may in each case direct.

(3) Every such determination by the Ministers shall be final:

Provided that where after any such determination the Ministers are satisfied on an application made to them in that behalf by any party thereto that fresh evidence has become available which—

(*a*) could not reasonably have been discovered before such determination, and

(*b*) renders it desirable for them to reconsider that determination,

they shall, after giving notice in writing to all parties, make a further determination as aforesaid.

(4) Any application made to the Ministers in pursuance of the last preceding paragraph shall—

(*a*) be in writing;

(*b*) specify particulars of the fresh evidence aforesaid;

and copies thereof shall be supplied to every party to the original determination.

(5) Where any questions submitted to the Ministers or to an arbitrator for determination as aforesaid relate to remedial measures or the timing thereof in adjacent drainage areas the Ministers or the arbitrator (as the case may be) may, if all parties so agree, determine any or all such questions together.

Arbitration Act, 1950

4.—(1) Any reference to an arbitrator in pursuance of the last preceding regulation shall be deemed to be a reference under an arbitration agreement for the purposes of the Arbitration Act, 1950(**a**).

(2) Sections twelve and eighteen of the Arbitration Act, 1950 (which relate respectively to the conduct of proceedings and to costs) shall apply to any reference to the Ministers in pursuance of the last preceding regulation as if that reference was made under an arbitration agreement.

Election by the Board

5.—(1) Where any remedial measures have been agreed between the Board and the appropriate drainage authority or have been determined as aforesaid the Board shall as soon as possible give notice in writing to that authority stating that they have elected either,

(*a*) to carry out all or any of those remedial measures themselves; or

(*b*) to make a payment to that authority in pursuance of subsection (2) of section five of the Act.

(2) Every such election shall, subject to the next following regulation, be final and binding on the Board unless the appropriate drainage authority otherwise agrees.

(a) 14 Geo. 6. c. 27.

(3) Where the Board have elected to make any payment as aforesaid the appropriate drainage authority shall—

(*a*) give notice in writing to the Board specifying particulars of the remedial measures which they propose to carry out or, where it is their intention to merge the carrying out of the remedial measures with the execution of other works in pursuance of subsection (2) (*b*) of the said section five, particulars of such works not less than twenty-eight days before those measures or those works are begun;

(*b*) afford the Board reasonable facilities (so far as it is within their power to do so) for inspecting the area in which those measures or those works are to be carried out.

Variation of remedial measures

6.—(1) Where, after remedial measures have been agreed or determined as aforesaid, those measures are varied either—

(*a*) by agreement between the Board and the appropriate drainage authority;

(*b*) by an award made under section twenty-two of the Arbitration Act, 1950; or

(*c*) by a further determination made by the Ministers in pursuance of paragraph (3) of regulation three hereof;

every such variation shall be deemed to revoke any notice given by the Board in pursuance of paragraph (1) of the last preceding regulation and the Board shall give a further notice in pursuance of that paragraph.

(2) Nothing in this regulation shall relieve the Board of liability to make any payment to the appropriate drainage authority in respect of such remedial measures as have been carried out by that authority before any such variation.

Service of notices etc.

7. Any notice or other document required to be served upon the Board under these regulations by the appropriate drainage authority may be served by delivering it at, or sending it by post in a registered letter addressed to, any office of the Board.

Dated this fourth day of September, nineteen hundred and fifty-eight.

Mills,
Minister of Power.

Dated this fifth day of September, nineteen hundred and fifty-eight.

John Hare,
Minister of Agriculture, Fisheries and Food.

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations prescribe the manner in which questions with respect to subsidence damage affecting land drainage arising between the National Coal Board and the appropriate drainage authority under s. 5 of the Coal-Mining (Subsidence) Act, 1957, are to be determined in default of agreement.

In general disputes are to be referred to arbitration ; but provision is made, if either party so requests, for certain questions to be determined by the Ministers of Power and of Agriculture, Fisheries and Food acting jointly, and for the procedure to be adopted in such cases.

The regulations also prescribe the procedure to be followed after measures in relation to such damage have been agreed, determined or varied.

1958 No. 1307

The Coal-Mining (Subsidence) (Valuation) Regulations, 1958

Made - - - -	*6th August,* 1958
Laid before Parliament	*12th August,* 1958
Coming into Operation	*13th August,* 1958

The Minister of Power in exercise of the powers conferred upon him by subsection (7) of section one of, and paragraph 2 of the Second Schedule to, the Coal-Mining (Subsidence) Act, 1957(a), and of all other powers him enabling, hereby makes the following regulations:—

1. These regulations shall come into operation on the thirteenth day of August, nineteen hundred and fifty-eight, and may be cited as the Coal-Mining (Subsidence) (Valuation) Regulations, 1958.

2.—(1) In these regulations the following expressions have the meanings hereby assigned to them respectively, that is to say:—

" the Act " means the Coal-Mining (Subsidence) Act, 1957 ;

" equivalent replacement " means, in relation to a unit of property, the provision of a unit of property of such size, character and situation as to be reasonably capable of serving as effectively as the first mentioned unit the purpose for which that unit was normally used ;

" fee simple " in relation to property situated in Scotland means, in the case of feudal property, the estate or interest of the proprietor of the dominium utile, or, in the case of property other than feudal property, the estate or interest of the owner ;

" immediately after the occurrence of subsidence damage " and " immediately before the occurrence of subsidence damage " mean respectively, in relation to cases to which subsection (3) of section three of the Act applies, immediately after the occurrence of the further damage and immediately before the occurrence of the damage referred to in the damage notice ;

(a) 5 & 6 Eliz. 2. c. 59.